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COMMUNICATIONS  
SUPERVISOR

MILLENNIUM MEDIA, INC. MAR 30 9 52 AM '99

KKOR FM  
94.5

KTHR FM  
103.7

KXXI FM  
93.7

KYVA AM  
1230

March 24 , 1999

The Hon. Susan Ness, Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

MM 99-25

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MAR 30 1999

Federal Communications Commission  
Office of Secretary

Re: FCC Notice Of Proposed Rule Making To  
Establish Low Power FM Stations And  
A Microradio Service

Dear Commissioner Ness,

I want to express my concern about the FCC's proposal to establish new low power FM stations and a microradio service, and my strong opposition to this Rule Making proceeding.

I would like to review the reasons for my opposition to this proposal, and to give you some facts concerning the operations of my company, Millennium Media, Inc. over the past 22 years in Gallup, New Mexico, that bear on my opposition. We are a small market, locally owned, radio group of three FMs and one AM station.

#### The Technical Degradation Of Existing FM Service

The FCC's proposal would turn back the clock some 50 years to a time when the Commission did in fact allocate 1000 watt maximum power FM stations, an allocation now again being proposed. The FCC wisely decided half a century ago that this was an inefficient use of spectrum, and that the public would best be served by higher powered (wider area) coverage from FM stations. That policy has served the public well. In sparsely populated states like New Mexico, high powered Class C FM stations, broadcasting with 100 KW power, and given second and third adjacent channel protection, have been able to reach enough people to be economically viable and provide the listeners with services they need and expect from radio.

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We broadcasters have systematically made technical improvements at great expense to maximize power and coverage, sometimes under FCC mandate to do so. For example, in 1986, under pressure from the FCC to either go to 100 KW power or forever lose the right to do so, my company expended over \$250,000 to rebuild KKOR(FM), Gallup, and move it to an optimal transmitter site atop the Continental Divide. This maximized power and coverage consistent with the FCC's policies and dictates. Now, the FCC is proposing to allow literally thousands of low power(100 watt and 1000 watt) FM stations to be located mainly in small markets like Gallup, that can be built for a few hundred or thousand dollars. These can be placed so as to serve only the economically viable parts of the market (commercial areas), and can be operated cheaply. They will not have to provide full services, and will be able to impair the signal coverage of existing stations by not protecting their second and/or third adjacent channels, (In order for the FCC to "shoehorn" low power FM stations into populated areas, it is proposing to ignore second and third adjacent channel interference that may occur to existing stations in all market sizes).

The reasonable expectancy of broadcasters and the general public is that the FCC will refrain from adopting new rules that will impair their ability to serve, and be served, respectively. We have spent years developing the coverage areas assigned to us by providing broadcast services to those areas. Parts of these coverage areas will not be able to listen to FM radio stations that they have come to rely on for service.

This technical interference will be a problem for broadcasters whether the low power FM service is open for commercial operators, or is limited to non-commercial operations.

### The Adverse Impact On Future Technical Development Of FM Radio

For several years, the FCC has been considering the development of in-band/on channel (IBOC) digital service that will revolutionize digital radio service in this country. Though this proposed service creates great uncertainty in the minds of small market broadcasters (we do not know how much it will cost to be able to participate in this technology, or how we may be impacted by existing listeners being able to receive "imported, distant radio signals"), we need the continued protection of the second and third adjacent channels to be assured of future participation in the IBOC digital service revolution. Though the technical studies proving the need for continued protection are beyond the means of our company to provide you at this time, I understand that the National Association of Broadcasters (NAB) will provide this proof.

### There Are Still FM Availabilities In Small Markets

The FCC's proposal to establish new low power FM service is not going to address the issue of "access to the airwaves" in major markets. They already are served by so many signals that no new low power stations will be available to serve them. It is the small markets which are vulnerable to these proposals. Thousands of low power FMs will be available in small markets. At the same time, there are still full power FM availabilities that can be applied for in most, if not all, small markets. Again, it is beyond our means to provide this proof, but the FCC itself should be in possession of this information, as is NAB. Thus, it is those least able to absorb the adverse impacts of the FCC's proposals that will be impacted by them the most.

## The Adverse Impact On Services To The General Public

I was astonished to learn from FCC (and NAB) staff members that you only want to hear comments on the technical issues of your proposal, and that you do not want to hear about economic issues. If that is true, you are saying that you do not care about services provided to the general public, since everybody knows that services can, and will, decline with adverse economic impacts on the industry by ill-advised FCC policies and actions. I want to demonstrate this by relating what happened to services to the general public when the FCC last adopted policies that adversely affected our industry.

In adopting Docket 80-90, the FCC ignored the adverse impacts its policies would have on services to the general public. Radio stations were added in most small markets with adverse impacts on broadcast services. Gallup is a city of around 20,000 population which has remained constant over the past 25 years. In 1987, there were four radio stations licensed to Gallup. Our company operated two of these, KYVA(AM) and KKOR(FM), with 24 hours per day live, local announcers on both stations. We had a news department of either two or three persons most of the time. The live announcers were a constant source of localism. As soon as a person called in, any time of the day or night, with an announcement of a death in the family, or an item of their Navajo Chapter activities, or information about a lost or found wallet or keys or pets, it got on the air on both stations. So did information phoned in by the Highway Patrol, City Police or County Sheriff about highway, road or street conditions or other emergencies. The same was true of vital information from the schools about closings and meetings, hospitals, fire department, and utility providers. Weather reports, in an area of often sudden changes, were broadcast hourly, or more often when necessary, 24 hours a day. The company was able to provide 24 hour live services on both stations because it had the economic base to do this. In 1988, the market picture began to change, and the proliferation of stations began. There are now seven radio stations licensed to Gallup (one being a non-commercial FM), and another six stations that broadcast, and sell advertising, on a daily basis to the Gallup community. In one year, from 1988 to 1989, revenues of our company dropped 20%. Still, we continued to provide 24 hour, live broadcasting. However, by 1990, the radio pie had been sliced so many ways that revenues were down by nearly 33%, and services had to be cut. Since payroll is the largest cost item in most broadcast operations, live announcers were let go in favor of syndicated programming. The company operations, which were in the red for 1989 and 1990, regained a minor degree of profitability at the expense of service to the public. News operations had to be cut back, and there were no longer live announcers 24 hours per day to take the phone calls and provide the 24 hour information that the general public came to expect. Nothing changed by way of rebuilding revenues for several years. In fact, in 1993, revenues were a mere 63% of what they were in 1988. One reasonably might suggest that this could be attributable to a change in key personnel, but in our case the General Manager and key sales personnel have been the same from well before 1988 to the present.

The FCC realized the disaster that Docket 80-90 inflicted on our industry, and so it began to relax its ownership rules to allow us to acquire additional stations. We realized that consolidation was the only way to survive, so we acquired an additional FM station in 1994, and a third FM station in 1998. The revenue picture has improved, and revenues are now about the same in 1998 as they were ten years earlier. The only problems with this are that we need to operate four stations instead of two to get the same revenues, we have had to make a huge capital commitment to acquire the other two stations, and when inflation over ten years is factored in, we are still way behind the curve in being able to provide the full services we gave the public in 1988. Nonetheless, we do provide local, live programming; local news three times each day (the only local electronic news service in Gallup, whereas there were two services in 1988); local sports, including the only local play-by-play of Gallup High School sports involving girls and boys; and local public affairs,

election forums, public service, and weather on an hourly basis. We were the only company to provide live coverage of the Navajo Nation's Presidential Forum during the 1998 election process. The same is true of the Gubernatorial debate in New Mexico. We broadcast Navajo Nation news twice every morning, and during the noon and afternoon newscasts. Thus, much of the broadcast services of 1988 have been restored in the case of our company, thanks to consolidation. Now, the FCC intends to adopt policies that will not only destroy the broadcast services we can provide to the public, but also the technical integrity of that service. It is difficult to conceive of a more destructive course of action that the FCC could take with respect to small market, locally-owned, radio.

### The Administrative Nightmare Of Policing Thousands Of New FM Stations

The FCC has budgetary problems that have severely affected its present ability to police the radio spectrum. It has closed, or reduced personnel in, field offices. There have been issues of unauthorized ("pirate") radio stations operating all over the country. The FCC has slowly and, to some broadcasters' way of thinking, ineffectively dealt with this problem. One can foresee a lot of chaos resulting from the proposed new low power FM and microradio. Interference complaints, if standards are relaxed, will be ignored. The broadcaster complaining of interference will be forced to prove its case, and the cost of doing this is well beyond the ability of small market broadcasters to pay. There will be a lack of support from the already overworked field offices that will be inundated with new complaints on top of their regular work. It also will be nearly impossible to stop a 100 watt or 1000 watt operator from over-modulating to gain coverage. This will be a temptation that is real because of lack of enforcement, and difficulty of monitoring. In short, proposed low power FM and microradio present enormous administrative burdens on an already over-burdened agency, and offer no protection to broadcasters against unlawful interference and over-modulation.

### The FCC's Avowed Objective Of Allowing More People To Use Radio Ignores The Diversity Now Present In The Industry

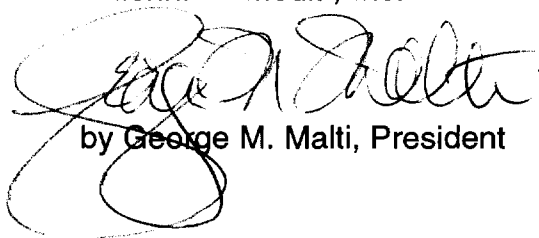
I believe that your statement that consolidation in the broadcast industry has foreclosed access opportunities to churches, community groups, elementary schools, universities, small businesses, and minority groups is unfounded in most markets. In a small market like Gallup, New Mexico, the branch campus of the University of New Mexico has its own non-commercial FM station. There are two religious radio stations in the market, as well as religious services on other commercial stations. Community groups have full access to both public affairs and public service programming on all radio stations. No one is turned down at Millennium Media, Inc.. Elementary schools not only have coverage on the stations, but they come to the stations in groups to tour our facilities and announce special activities at their schools. As I type this letter, a group of nine children from Gallup Christian School is touring the facilities, and telling the radio audience of their drama club presentation. In addition, staff of our company regularly go to schools to emcee spelling bees, geography quizzes, and to participate in career days. "Minority groups" in this area represent about two-thirds of the population in the market, and are predominantly Native American and Hispanic. There is one full-time Spanish language FM station, and additional Spanish language programming on KYVA(AM). There is a full-time station that broadcasts exclusively in the Navajo language, KGAK(AM) that is 5 KW. There is also a 50 KW AM station that the FCC especially granted the Navajo Nation so that it could reach all corners of the Navajo Nation, and serve all of its various Chapters with Chapter news. The Navajo Nation also operates a Class C FM station, and both of its stations broadcast, and sell advertising, to Gallup. There are also radio stations licensed to Chinle, Arizona on the Navajo Nation, and an allocation for Tuba City, Arizona. The Zuni Nation is also served with a radio station and a translator.

Diversity of voices, and access to radio, is not an issue in this area, and we suspect this is not an issue in most small markets. Besides, as noted before, there are always full power FM facilities available in many of these markets, and existing technical standards offering protection on the second and third adjacent channels can be maintained.

For all of the above reasons, I strongly oppose the proposed low power FM and microradio rule making , and I very much appreciate your voting against its adoption. It is a matter of utmost importance to us, and to all locally-owned, small market broadcasters. We ask for the right to continue to provide essential services without elimination or reduction of existing protection against technical interference, and without the devastating economic consequences that inevitably lead to reduction of services to the general public.

Sincerely,

Millennium Media, Inc.

A handwritten signature in black ink, appearing to read "George M. Malti", is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

by George M. Malti, President